

Court of Appeals, State of Michigan

ORDER

Clayton Pack v Robert Hutchison

Docket No. 259479

LC No. 03-321721-NI

Christopher M. Murray
Presiding Judge

Helene N. White

Brian K. Zahra
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's November 11, 2004 order is REVERSED to the extent the trial court found that plaintiff suffered a serious impairment of body function pursuant to MCL 500.3135. There is no dispute regarding the nature and extent of plaintiff's injuries. Therefore, the question of whether plaintiff suffered a serious impairment of body function is a question of law. MCL 500.3135(2). In this case, under the totality of the circumstances, plaintiff's postimpairment life is not so different that his "general ability" to lead his normal life has been affected. See *Kreiner v Fischer*, 471 Mich 109, 132-134, 136; 683 NW2d 611 (2004). The injury has had only a de minimus effect on, and has not altered the course or trajectory of, plaintiff's normal life. *Id.* at 131, 133. Therefore, plaintiff has failed, as a matter of law, to establish that he has suffered a serious impairment of body function.

This matter is REMANDED to the trial court for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

APR 25 2005

Date

Sandra Schultz Mengel
Chief Clerk